

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

FORREST ZUDELL,

Plaintiff,

v.

**OKLAHOMA DEPARTMENT OF
CORRECTIONS, *et al.*,**

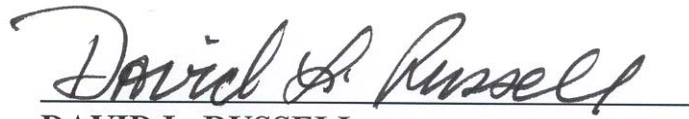
Defendants.

Case No. 17-CV-925-R

ORDER

Before the Court is the Report and Recommendation of Judge Suzanne Mitchell, Doc. 29, recommending dismissal of pro se Plaintiff's claims against the Oklahoma Department of Corrections ("ODOC"). *See* Doc. 1. In screening Plaintiff's complaint *in forma pauperis*, the Court must dismiss any portion that is frivolous, malicious, or fails to state a claim upon which relief can be granted. *See* 28 U.S.C. §§ 1915(e)(2)(B)(i)-(ii), 1915A(a)-(b); 42 U.S.C. § 1997e(c)(1)-(2); *Kay v. Bemis*, 500 F.3d 1214, 1217-18 (10th Cir. 2007). Plaintiff's objection, Doc. 29, warrants de novo review of the complaint. The ODOC is a state agency protected by Eleventh Amendment sovereign immunity, which bars "nonconsenting States" from suits "by private individuals in federal court." *Bd. of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 363 (2001). Oklahoma has not waived sovereign immunity. 51 O.S. § 152.1. Thus, Plaintiff cannot sue the ODOC. The Court hereby ADOPTS the Report (Doc. 29) and DISMISSES Plaintiff's claims against the ODOC. Further, the Court DENIES Plaintiff's desired extension to file a more thorough objection because it would be futile; sovereign immunity clearly applies to the ODOC.

IT IS SO ORDERED this 22nd day of March, 2018.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE